

**REMARKS**

This amendment is in response to the Examiner's office action dated March 25, 2005.

**1. Information Disclosure Statement**

Applicants acknowledge the signed copy of the IDS from the Examiner.

**2. Specification**

The Examiner has objected to the abstract because it is not commensurate with the scope of the claimed invention (Office Action, p. 2). Applicants respectfully traverse and submit that in light of the current amendments, the abstract is proper.

The Examiner has objected to the specification for including blank spaces on page 48. Applicants have amended this paragraph and submit that the specification is now in proper form.

**3. Claim Objections**

The Examiner objects to claims 2 and 3 stating that a comma should be inserted before "wherein". Applicant assumes the Examiner refers to claims 3 and 4, and those claims have been amended accordingly. The Examiner objects to claims 5, 6, 7 and 8 because of informalities. Applicant thanks Examiner for the suggested changes. The claims have been amended and Applicant respectfully requests reconsideration.

**4. Claim Rejections – 35 U.S.C. § 102/103**

The Examiner rejects claims 1-8 as being anticipated by or obvious over Grace III et al. (US Pat No. 5,942,668). Applicant respectfully traverses.

XB09J04 has a maturity group of 0 and a subgroup of 9 as taught on page 12 of the specification on lines 5-6. In contrast, 92B05 has a maturity group of 2, as disclosed in the patent referenced by the Examiner at in Table 1. This represents a substantial difference in maturity which enables these varieties to be grown in different geographic

areas, as further evidenced by the different areas of adaptation described for these varieties. For example, the earlier maturity of XB09J04 makes it well adapted for use in far northern climates, which is not the case for 92B05 (specification, page 11). Conversely, the later maturity of 92B05 makes it well adapted for use in more southern climates than XB09J04. Exhibit A is a figure illustrating the distinct geographical implications of a difference between 0 and II in maturity classification (Walter Fehr, ed., Principles of Cultivar Development, vol. 2. 1987, p. 536.). This represents a very substantial difference between these two soybean varieties.

In summary, applicants respectfully assert that the soybean variety of the instant application and 92B05 are not identical and differ much more than minor morphological variation. Applicants respectfully request reconsideration.

### CONCLUSION

In conclusion, Applicant submits in light of the above amendments and remarks, the claims as amended are in a condition for allowance, and reconsideration is respectfully requested. If it is felt that it would aid in prosecution, the Examiner is invited to contact the undersigned at the number indicated to discuss any outstanding issues.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 16-1856.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

  
Steven Callistein  
Reg. No. 43,525  
Attorney for Applicant

Steven Callistein  
Pioneer Hi-Bred International  
7100 NW 62<sup>nd</sup> Avenue  
P.O. Box 1000  
Johnston, IA 50131-1000  
(515) 254-2823